

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

HENRY MCMASTER, in his official capacity as
Governor of the State of South Carolina, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF LABOR, *et al.*,

Defendants.

Civil Action No.: 3:23-cv-1038-SAL

JOINT STATUS REPORT

Pursuant to the Court’s modified stay order (ECF No. 30), the Parties inform the Court that the Supreme Court decided *Corner Post, Inc. v. Board of Governors of Federal Reserve System*, No. 22-1008 (U.S.), on July 1, 2024. The Court held that “[a] claim accrues when the plaintiff has the right to assert it in court—and in the case of the APA, that is when the plaintiff is injured by final agency action.” Slip Op. at 1.

With the lifting of the stay in these cases, the Parties have conferred and propose the following briefing schedule:

August 30, 2024: Defendants’ Motion to Dismiss due

September 20, 2024: Plaintiffs’ Opposition due

October 11, 2024: Defendants’ Reply due

Further, in its July 1, 2024 text order, the Court indicated that the latest date it would accept for trial is September 22, 2025. However, “[c]ourts routinely resolve APA challenges on summary judgment motions.” *Xpress Grp. Inc. v. Cuccinelli*, No. 3:20-CV-00568-DSC, 2022 WL 433482,

at *3 (W.D.N.C. Feb. 10, 2022) (citing *Nieves v. McHugh*, 111 F. Supp. 3d 667, 679–80 (E.D.N.C. 2015) (“A court conducting judicial review under the APA does not resolve factual questions, but instead determines whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did.” (internal citations omitted)). “Thus, in an APA claim, ‘summary judgment becomes the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the APA standard of review.’” *Nieves*, 111 F. Supp. 3d at 679–80 (quoting *Ohio Valley Envtl. Coal. v. Hurst*, 604 F.Supp.2d 860, 879 (S.D.W.Va.2009)).

Accordingly, and consistent with the Court’s desire to hear the Parties’ ultimate merits submission by September 22, 2025, the Parties have conferred and propose the following schedule for a merits determination in this case:

June 20, 2025: Plaintiffs’ Motion for Summary Judgment

July 18, 2025: Defendants’ Combined Opposition & Cross Motion for Summary Judgment

August 15, 2025: Plaintiffs’ Combined Reply & Opposition

September 5, 2025: Defendants’ Reply

September 22, 2025: Hearing on Motions for Summary Judgment

Respectfully submitted,

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July 15, 2024